

AMENDED IN SENATE AUGUST 31, 2011

AMENDED IN SENATE MARCH 24, 2011

**SENATE BILL**

**No. 685**

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**Introduced by Senator Evans**

February 18, 2011

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~~An act to amend Section 5827 of the Public Resources Code, relating to parks.~~ *An act to add Section 2864 to the Fish and Game Code, relating to marine resources.*

LEGISLATIVE COUNSEL'S DIGEST

SB 685, as amended, Evans. ~~Parks: Mendocino Woodlands Outdoor Center.~~ *Marine protected areas: Native American tribes.*

*The Marine Life Protection Act (MLPA) establishes the Marine Life Protection Program to reexamine and redesign California's marine protected area system. Existing law requires the Department of Fish and Game to prepare, and the Fish and Game Commission to adopt, a master plan that guides the adoption and implementation of the program, including recommended alternative networks of marine protected areas. Under the MLPA, the taking of a marine species in a marine life reserve, a type of marine protected area, is prohibited for any purpose, including recreational and commercial fishing, except as authorized by the commission for scientific purposes.*

*This bill would authorize Native American tribes to submit proposals for comanagement of marine species within marine protected areas that are designated or proposed to be designated under the MLPA. The bill would require comanagement proposals to include prescribed information, and would require submission of the proposals to the Secretary of the Natural Resources Agency. The bill would authorize the secretary to request additional information before determining that*

*a proposal is complete, and upon receipt of a proposal from the secretary, would require the Director of Fish and Game to consult with the tribe to develop memoranda of understanding or other agreements to, among other things, provide access to the tribe for traditional hunting and gathering and cultural activities. If multiple tribal governments or groups submit proposals to the secretary, the bill would require the secretary to prioritize the proposals for negotiation, as provided.*

~~The Mendocino Woodlands Outdoor Center Act requires the Department of Parks and Recreation to administer as a unit of the state park system the Mendocino Woodlands Outdoor Center.~~

~~The act authorizes the department to enter into an operating agreement with a qualified nonprofit entity. The act requires the department, prior to entering into an agreement, to submit a copy of the agreement to the Legislative Analyst for his or her review and recommendations. The act provides that the proposed agreement is deemed to constitute the Legislative Analyst's approval if the Legislative Analyst fails to respond within 30 days after submission.~~

~~This bill would instead provide that the proposed agreement is deemed to constitute the Legislative Analyst's approval if the Legislative Analyst fails to respond within 30 days after submission.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 2864 is added to the Fish and Game Code,
- 2     to read:
- 3     2864. (a) Any federally recognized Native American tribe or
- 4     nonfederally recognized Native American tribe listed on the
- 5     California Tribal Consultation List maintained by the Native
- 6     American Heritage Commission, through its governing body, may
- 7     submit a proposal for limited or full comanagement of marine
- 8     species within marine protected areas designated or proposed to
- 9     be designated under this chapter to the Secretary of the Natural
- 10    Resources Agency. Two or more tribal governments may jointly
- 11    submit a unified comanagement proposal.
- 12    (b) A comanagement proposal shall include, but shall not be
- 13    limited to, all of the following:
- 14    (1) A description of the geographic boundaries of the area over
- 15    which comanagement authority is sought.

1     (2) *A complete list of the species of interest to the tribe over*  
2 *which comanagement authority is sought.*

3     (3) *A description of the proposed roles of the tribe and the State*  
4 *of California in identifying and sharing scientific data about the*  
5 *species of interest or their habitats.*

6     (4) *A description of the proposed roles of the tribe and the State*  
7 *of California in recommending joint management policies.*

8     (5) *A description of the proposed role of the tribe in enforcing*  
9 *the provisions of the comanagement agreement with its members.*

10    (6) *A dispute resolution mechanism in the event of unresolved*  
11 *conflicts over obtaining or evaluating scientific data, enforcement*  
12 *mechanisms, and other matters that arise during the consultation*  
13 *undertaken pursuant to subdivision (e).*

14    (c) *The Secretary of the Natural Resources Agency shall*  
15 *consider the comanagement proposal and may require additional*  
16 *or clarifying information before determining that the proposal is*  
17 *complete.*

18    (d) (1) *If multiple tribal governments or groups of tribal*  
19 *governments submit proposals to the Secretary of the Natural*  
20 *Resources Agency, the secretary shall prioritize the proposals for*  
21 *negotiation by the extent to which a proposal includes multiple*  
22 *tribal governments, the overall importance of the species covered*  
23 *by the proposal to the implementation of this chapter, and other*  
24 *criteria identified by the secretary.*

25    (2) *By July 1, 2012, the secretary shall forward the first proposal*  
26 *for negotiation to the director.*

27    (3) *The director shall enter into negotiations pursuant to this*  
28 *section for only one memorandum of understanding or other*  
29 *agreement at a time.*

30    (4) *Upon completion of an agreement or a determination by the*  
31 *secretary that negotiations have ceased, the secretary shall forward*  
32 *the next proposal in order of priority to the director for negotiation.*

33    (e) *Upon receipt of a proposal from the Secretary of the Natural*  
34 *Resources Agency, the director shall consult with the tribal*  
35 *governing body, or the tribe's officially designated representative,*  
36 *on the tribe's request for comanagement of the resources that are*  
37 *the subject of the proposal. The objective of the consultation shall*  
38 *be to develop memoranda of understanding or other agreements*  
39 *between the tribe and the state that accomplish the following:*

1     *(1) Provide access to the tribe for traditional hunting and*  
2     *gathering and cultural activities, recognizing that there may be*  
3     *other public use of the comanagement areas.*

4     *(2) Establish protocols for comanagement of the comanagement*  
5     *areas.*

6     *(3) Establish conservation strategies to ensure the preservation*  
7     *and enhancement of the resources of the comanagement areas to*  
8     *assist in meeting the science-based goals of this chapter.*

9     ~~SECTION 1. Section 5827 of the Public Resources Code is~~  
10    ~~amended to read:~~

11    ~~5827. The department may enter into an operating agreement~~  
12    ~~with a qualified, nonprofit entity for the provision of a program~~  
13    ~~or service contemplated in this chapter. Prior to entering into an~~  
14    ~~agreement, the department shall submit a copy of the proposed~~  
15    ~~agreement to the Legislative Analyst for his or her review and~~  
16    ~~recommendations, which shall not, however, be binding. Failure~~  
17    ~~of the Legislative Analyst to respond within 90 days after~~  
18    ~~submission of a proposed agreement shall be deemed to constitute~~  
19    ~~approval by the Legislative Analyst of the proposed agreement.~~